



INTERIOR BOARD OF INDIAN APPEALS

Porcupine Grazing Association v. Acting Billings Area Director,
Bureau of Indian Affairs

25 IBIA 42 (11/14/1993)

Denying reconsideration of:
24 IBIA 243



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

PORCUPINE GRAZING ASSOCIATION,	:	Order Denying Petition for
Appellant	:	Reconsideration
	:	
v.	:	
	:	Docket No. IBIA 93-123-A
ACTING BILLINGS AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	November 24, 1993

This is an appeal from the Acting Billings Area Director's July 14, 1993, decision concerning a grazing permit for Range Unit 17 on the Fort Peck Reservation. On October 13, 1993, the Board summarily affirmed the Area Director's decision, after concluding that appellant had not shown any basis upon which it might challenge that decision. 24 IBIA 243.

Appellant has petitioned for reconsideration, again contending that BIA's failure to renew its grazing permit was inconsistent with 25 CFR 166.3, which sets out the objectives of BIA's grazing regulations. The Board considered this argument in its earlier decision. It there stated: "The objectives described in this section are clearly intended to benefit Indians and Indian lands, not permittees of Indian lands. Appellant cannot claim a violation of its rights based on a supposed failure to comply with these objectives." 24 IBIA at 245.

Appellant now argues: "Even if Appellant lacks standing, certainly the great number of allottees involved have sufficient standing. It only seems fair that this appeal be pressed until they are fully notified of what is happening" (Petition at 2).

Although appellant now seems to suggest that some of the individual landowners might support its appeal, it took no steps to include them in the appeal. In fact, it failed either to identify them as interested parties or to serve them with copies of its notice of appeal. ^{1/} See 43 CFR 4.310(b), 4.332(a)(3). Therefore, it appears somewhat disingenuous for appellant now to invoke the standing of the landowners as a basis for its argument under

^{1/} Upon receipt of appellant's notice of appeal, the Board ordered appellant to show cause why the Area Director's decision should not be summarily affirmed. Because appellant's notice of appeal appeared on its face to have little or no basis, the Board concluded that it would be a waste of resources to require appellant to serve the landowners unless and until the Board determined that appellant could show some basis for its appeal.

25 CFR 166.3. Appellant's ploy is unavailing. The fact that the landowners would have standing to raise this issue does not vest appellant with standing to raise it.

In any event, appellant's lack of standing to raise an argument under 25 CFR 166.3 was not the primary basis for the Board's dismissal of its appeal. Rather, the appeal was dismissed because appellant failed to show that it had a legal right to have its expired grazing permit renewed. Appellant does not challenge that finding in its petition for reconsideration.

Under the Board's regulations, reconsideration may be granted only in extraordinary circumstances. 43 CFR 4.315(a). Appellant has not shown that such extraordinary circumstances exist.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, appellant's petition for reconsideration is denied. This decision is final for the Department of the Interior.

//original signed
Anita Vogt
Administrative Judge

//original signed
Kathryn A. Lynn
Chief Administrative Judge